

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert W. Fleming, Appellant, v. City of Davenport Board of Review, Appellee.	ORDER Docket No. 13-103-1178 Parcel No. B0025-29
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On January 23, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Robert W. Fleming was represented by attorney R. Doug Wells of Gomez May, LLP, Davenport, Iowa. City Attorney Tom Warner is legal counsel for the Board of Review. This appeal was a written consideration by agreement of the parties. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Robert W. Fleming is the owner of property located at 114 E Central Park Avenue, Davenport, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$142,740, representing \$26,750 in land value and \$115,990 in improvement value.

Fleming protested the assessment to the City of Davenport Board of Review on the grounds the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); that the property is assessed for more than authorized by law under section 441.37(1)(a)(2), and that there was a change in value since the last reassessment under sections

441.35(2) and 441.37(1)(b). Reviewing the petition, Fleming was essentially only stating a claim of over-assessment. The Board of Review denied the protest.

Fleming then appealed to PAAB reasserting his claim. Fleming asserted the property's correct value was \$131,000, representing \$25,000 in land value and \$106,000 in improvement value.

According to the property record card, the subject property is a brick, two-story, two-family conversion built in 1900. The improvement has 2417 square feet of living area; a full, unfinished basement; 266 square feet of wood deck; 40 square feet of wood stoop; a 528 square foot, detached garage; and a 222 square-foot concrete stoop. The property is listed in normal condition with a good quality grade (3+05). The dwelling sits on a 0.184-acre site.

Fleming submitted an appraisal completed by Chad Kelley, Rally Appraisal, LLC in Bettendorf, with an effective date of March 1, 2013. Kelley completed the sales comparison approach and the income approach to value the subject property, but gave the greatest weight to the sales comparison approach. In the income approach, Kelley used three comparable rental properties of similar overall unit utility that would compete with the subject's units on the open market. He asserts Comparable rental #3 was the most influential as it offered the most similar utility to the subject. Kelley estimated \$1500 gross monthly rent from the market data and calculated a gross rent multiplier of 90 from the mid-point of the four comparable sale properties reviewed to conclude an indicated value of \$135,000 for the subject.

In his sales approach to value, Kelley used four comparable properties, three that sold between February 2012 and February 2013 and one listing. They are all two-unit residential properties in similar Davenport locations in average to average/good condition. Sale prices ranged from \$126,900 to \$142,000, or \$63,450 to \$71,000 per unit. Kelley adjusted the sale prices to account for differences in financing, time of sale, condition, room count, parking, and amenities. He arrived at adjusted sale prices of \$65,500 to \$67,870 per unit and concluded a value of \$131,000 for the subject property.

The Board of Review did not offer any evidence to support the assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).


In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property, or a "fair and reasonable exchange . . . between a willing buyer and a willing seller." *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

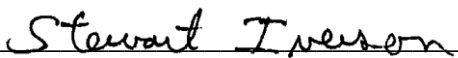
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

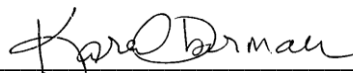
We note the sales comparison approach is the preferred method to assess property under Iowa law. § 441.21(1)(b). After consideration of the evidence, we find Kelley's appraisal, which values the property at \$131,000, demonstrates the subject property's assessment is excessive and provides the best evidence of the property's fair market value as of January 1, 2013. For the foregoing reasons, we determine Fleming has met his burden of demonstrating the subject property is over-assessed.

THE APPEAL BOARD ORDERS the January 1, 2013 assessment of the Board of Review is modified to a total value of \$131,000. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Scott County Auditor and all tax records, assessment books, and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 27th day of February, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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